

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: San Francisco

**FILED**  
MAY 23 2013  
RICHARD W. WICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

UNITED STATES OF AMERICA,

v.

DEAN TUAN TRINH,

**CR13-00336**

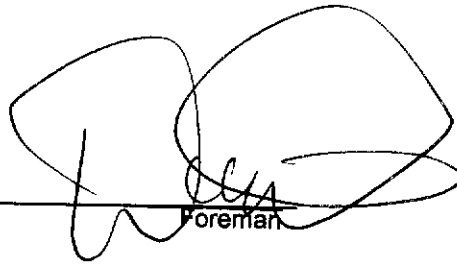
RS

DEFENDANT.

**INDICTMENT**

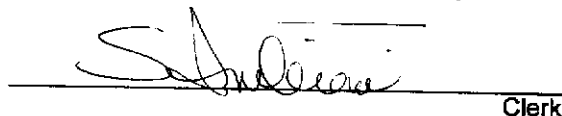
16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1)(B) – Lacey Act;  
18 U.S.C. § 1343 – Wire Fraud; 16 U.S.C. § 3374 -- Lacey Act Forfeiture

A true bill.



Foreman

Filed in open court this 23 day of May, 2013



Clerk

Kandis Williams Bail, \$ Summons 5/23/13

AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING
**OFFENSE CHARGED**
 16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1)(B) - Lacey  
 Act; 18 U.S.C. § 1343 - Wire Fraud; 16 U.S.C. § 3374 - Lacey  
 Act Forfeiture

☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony

 PENALTY: Wire Fraud, 18 U.S.C. § 1343: 20 years imprisonment;  
 \$250,000 fine; 3 years supervised release; \$100 special assessment  
 Lacey Act, 16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1)(B):  
 5 years imprisonment; \$250,000 fine; 3 years supervised release;  
 \$100 special assessment

 Name of District Court, and/or Judge/Magistrate Location  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

**FILED**  
 MAY 23 2013
**DEFENDANT - U.S.**
 RICHARD W. VIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

DEAN TUAN TRIHN

DISTRICT COURT NUMBER

**CR13-00336****RS****PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

United States Fish and Wildlife Service

☐ person is awaiting trial in another Federal or State Court,  
 give name of court

☒ this person/proceeding is transferred from another district  
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of  
 charges previously dismissed  
 which were dismissed on motion  
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW  
DOCKET NO.
☐ this prosecution relates to a  
 pending case involving this same  
 defendant
MAGISTRATE  
CASE NO.
☐ prior proceedings or appearance(s)  
 before U.S. Magistrate regarding this  
 defendant were recorded under

 Name and Office of Person  
 Furnishing Information on this form MELINDA HAAG
☒ U.S. Attorney ☐ Other U.S. Agency

 Name of Assistant U.S.  
 Attorney (if assigned) MAUREEN BESSETTE, AUSA
**IS NOT IN CUSTODY**
 1) ☒ Has not been arrested, pending outcome this proceeding.  
 If not detained give date any prior  
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes  
 been filed? ☐ No

 If "Yes"  
 give date  
 filed
DATE OF  
ARREST

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

DATE TRANSFERRED  
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
**PROCESS:****ADDITIONAL INFORMATION OR COMMENTS**
☒ SUMMONS ☐ NO PROCESS\* ☐ WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

☒ Arraignment ☒ Initial Appearance

 \* Where defendant previously apprehended on complaint, no new summons or  
 warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

 Date/Time: 6/12/13 @ 9:30 a.m. Before Judge: Beeler

Comments:

MELINDA HAAG (CABN 132612)  
United States Attorney

**FILED**

MAY 23 2013

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

**CR13-00336**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEAN TUAN TRINH,

Defendant.

NO. CR

VIOLATIONS: 16 U.S.C. §§ 3372(a)(2)(A),  
3372(a)(4), 3373(d)(1)(B) – Lacey Act;  
18 U.S.C. § 1343 – Wire Fraud; 16 U.S.C. § 3374  
-- Lacey Act Forfeiture

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Defendant DEAN TUAN TRINH operated a wholesale fish business in Milpitas, California, under the following names: AquatopUSA LLC, High Tech Auctions and Hightechauction.com. Through his business, TRINH sold California leopard sharks to individuals and entities in the United States and internationally.

2. TRINH was the registered owner of a fishing vessel "Shark Hunter," registration #CF7444KF, which he used to fish for California leopard sharks in the San Francisco Bay. He

1 transported the sharks from the Bay to his business in his black 2005 Toyota Tundra double cab CA  
2 license plate ending #230. TRINH advertised the California leopard sharks for sale on the Internet.

3 3. California leopard sharks are a species of shark within the Triakidae family and are  
4 commonly found in ocean waters along the coast of California. The major pupping areas where young  
5 California leopard sharks are born are within the San Francisco Bay. Pups are born live at  
6 approximately 10 inches in length.

7 4. In January 1994, the California Department of Fish & Game Code placed a minimum  
8 size limit of 36 inches for any commercial take of California leopard shark within California. Cal. Dept.  
9 Fish & Code § 8388.5(a). Pursuant to section 8388.5, "[a] person shall not take, possess, sell, or  
10 purchase for commercial purposes any leopard shark less than 36 inches in total length." This size limit  
11 was implemented to ensure the species' ability to maintain healthy stocks in the wild because the  
12 California leopard shark is a slow growing species that does not reach sexual maturity until between 7 to  
13 13 years of age. It may live as long as 30 years.

14 5. The federal Lacey Act makes it unlawful for any person to import, export, transport, sell,  
15 receive, acquire, or purchase in interstate or foreign commerce, any fish or wildlife, taken, possessed,  
16 transported, or sold in violation of any law or regulation of any State. 16 U.S.C. § 3372(a)(2)(A).

17 6. The United States Fish & Wildlife Service ("USFWS") is an agency of the United States.  
18 USFWS has authority to investigate and enforce criminal laws related to offenses including wildlife  
19 violations, wire fraud, and false statements.

20 COUNTS ONE THROUGH THREE: (16 U.S.C. §§ 3372(a)(2)(A), 3372(a)(4), 3373(d)(1)(B) – Lacey  
21 Act)

22 7. Paragraphs 1 through 6 are realleged and incorporated by reference.

23 8. On or about the dates listed below, in the Northern District of California and elsewhere,  
24 defendant,

25 DEAN TUAN TRINH,  
26 did knowingly engage in conduct and attempt to engage in conduct that involved the sale of, offer of  
27 sale and purchase of, and intent to sell and purchase fish with a market value in excess of \$350.00, that  
28 is, undersized California leopard sharks (*Triakis semifasciata*), and did knowingly transport, sell,

1 receive, and acquire said fish and attempt to do so, in interstate commerce, knowing said fish were  
 2 taken, possessed, transported, and sold in violation of and in a manner unlawful under the laws and  
 3 regulations of the State of California, specifically California Fish & Game Code, Section 8388.5(a), in  
 4 that the sharks were less than 36 inches in total length.

Count	Date Shipped	Shipped From	Shipped To	Amount
1	10/13/10	San Francisco, CA	Aquarium of Quebec Quebec, Canada	\$1,200.00
2	12/01/10	San Francisco, CA	Aquarium of Quebec Quebec, Canada	\$1,200.00
3	02/01/12	San Jose, CA	Miami, Florida	\$3,000.00

10 Each in violation of Title 16, United States Code, Sections 3372(a)(2)(A), 3372(a)(4), and  
 11 3373(d)(1)(B).

12 COUNTS FOUR THROUGH NINE: (18 U.S.C. § 1343 – Wire Fraud)

13 9. Paragraphs 1 through 6 are realleged and incorporated by reference.

14 The Scheme to Defraud

15 10. In or about at least October 2010 through February 2012, DEAN TUAN TRINH devised  
 16 a scheme and artifice to defraud, and to obtain money by means of materially false and fraudulent  
 17 representations and omissions, by taking, possessing, transporting, and selling undersized California  
 18 leopard sharks.

19 11. As part of the scheme, TRINH sent fictitious health certificates to his customers.

20 12. As a further part of the scheme, TRINH filed electronically with USFWS Form 3-177  
 21 “USFWS Declaration for Importation or Exportation of Fish or Wildlife.” At times, TRINH falsely  
 22 stated on this form that the California leopard shark he was shipping was 36 inches in length.

23 13. As a further part of the scheme, TRINH communicated with customers and potential  
 24 customers via email and telephone offering for sale undersized California leopard sharks.

25 14. As a further part of the scheme, TRINH represented that he had a permit to sell and offer  
 26 for sale undersized California leopard sharks.

27 15. On or about the dates listed below, in the Northern District of California and elsewhere,  
 28

for the purpose of executing a scheme and artifice to defraud the U.S. Fish & Wildlife Service as to a material matter, by shipping California leopard sharks under 36 inches in total length, and for obtaining money by means of materially false and fraudulent pretenses, representations, promises, and omissions, defendant,

DEAN TUAN TRINH,

did knowingly cause to be transmitted and did aid and abet in causing to be transmitted the following wire communications in interstate commerce:

Count	Date	Description of Wire
4	10/13/10	TRINH emailed health certificate and invoice to Aquarium of Quebec
5	10/14/10	TRINH emailed Aquarium of Quebec his collector permit
6	10/15/10	Electronic transmission of USFWS Form 3-177 from Milpitas, CA, to USFWS' server in Denver, Colorado
7	11/29/10	TRINH emailed Aquarium of Quebec offering to send 24 inches leopard shark
8	11/30/10	Electronic transmission of USFWS Form 3-177 from Milpitas, CA, to USFWS' server in Denver, Colorado
9	12/01/10	TRINH emailed health certificate and invoice to Aquarium of Quebec

Each in violation of Title 18, United States Code, Section 1343.

**FORFEITURE ALLEGATION:** (16 U.S.C. § 3374 – Lacey Act Forfeiture)

16. Paragraphs 1 through 6 of this Indictment are realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to 16 U.S.C. § 3374.

17. Upon conviction of an offense set forth in Counts One through Five of this Indictment, a violation of 16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B), defendant,

DEAN TUAN TRINH,

shall forfeit to the United States, pursuant to 16 U.S.C. § 3374, all vessels, vehicles, and other equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring, or purchasing of fish or wildlife, specifically including the following:

- a. the Shark Hunter, a fishing vessel, registration #CF7444KF; and
- b. a black 2005 Toyota Tundra double cab CA license plate ending #230;

18. If any of the property described above, as a result of any act or omission of the defendant:
- a. cannot be located upon the exercise of due diligence;
  - b. has been transferred or sold to, or deposited with, a third party;
  - c. has been placed beyond the jurisdiction of the court;
  - d. has been substantially diminished in value; or
  - e. has been commingled with other property which cannot be divided without difficulty,
- the United States shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p).

All pursuant to 16 U.S.C. § 3374(a)(2), 21 U.S.C. § 853, and 28 U.S.C. § 2461.

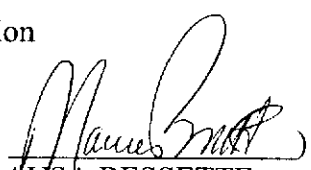
DATED: May 23, 2013

A TRUE BILL.

FOREPERSON

MELINDA HAAG  
United States Attorney

MIRANDA KANE  
Chief, Criminal Division

(Approved as to form: )

AUSA BESSETTE